

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TYRRELL L. JONES,

Plaintiff,

vs.

CAROLYN WRIGHT, *et al.*,

Defendants.

Case No. 2:20-cv-01878-APG-VCF

ORDER

AMENDED COMPLAINT (ECF No. 5)

Before the Court is pro se plaintiff Tyrrell L. Jones's amended complaint (ECF No. 5). The plaintiff filed a "one page amended complaint" that refers to the original complaint. (*Id.*) The Court dismisses plaintiff's amended complaint without prejudice because his complaint is not complete in itself.

The Court granted plaintiff's *informa pauperis* application and dismissed his complaint without prejudice with leave to amend, finding that this Court may lack diversity jurisdiction over plaintiff's claims because although he noted that he had a Florida address, he alleged he was a citizen of the State of Nevada in his complaint. (See ECF Nos. 1-1 at 3 and 3 at 3). Plaintiff has now filed a one page "amended complaint" that states only that he is a citizen of the State of Florida and that this Court has diversity jurisdiction over this case. (ECF No. 5).

"[W]hen a plaintiff files an amended complaint, '[t]he amended complaint supersedes the original, the latter being treated thereafter as non-existent.'" *Rhodes v. Robinson*, 621 F.3d 1002, 1005 (9th Cir. 2010) (quoting *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir.1967)). An amended complaint must be

1 “complete in itself, including exhibits, without reference to the superseded pleading.” LR 15-1(a). The
2 amended complaint has replaced the original complaint in this case and plaintiff’s amended complaint
3 does not state any claims. Plaintiff’s amended complaint appears to reference his original complaint and
4 is not complete in itself. The Court dismisses plaintiff’s amended complaint without prejudice. This will
5 give plaintiff an opportunity to file a second amended complaint that is complete.

6 ACCORDINGLY,

7 IT IS ORDERED that Jones’s amended complaint (ECF No. 5) is DISMISSED WITHOUT
8 PREJUDICE.

9 IT IS FURTHER ORDERED that Jones has until Monday, March 1, 2021 to file a second
10 amended complaint addressing the issues discussed above. Failure to timely file an amended complaint
11 that addresses the deficiencies noted in this Order may result in a recommendation for dismissal with
12 prejudice.

13 IT IS FURTHER ORDERED that if an amended complaint is later filed, the Clerk of the Court is
14 directed NOT to issue summons on the amended complaint. The Court will issue a screening order on
15 the amended complaint and address the issuance of summons at that time, if applicable. See 28 U.S.C. §
16 1915(e)(2).
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18 **NOTICE**

19 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
20 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
21 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
22 may determine that an appeal has been waived due to the failure to file objections within the specified
23 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
24 objections within the specified time and (2) failure to properly address and brief the objectionable issues
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1 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
2 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
3 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Pursuant to LR IA 3-1, the plaintiff must immediately file
4 written notification with the court of any change of address. The notification must include proof of
5 service upon each opposing party's attorney, or upon the opposing party if the party is unrepresented by
6 counsel. Failure to comply with this rule may result in dismissal of the action.

7 IT IS SO ORDERED.

8 DATED this 28th day of January 2021.

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10 CAM FERENBACH
11 UNITED STATES MAGISTRATE JUDGE
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